1 BEFORE THE HEARING EXAMINER FOR THE CITY OF REDMOND 2 3 4 IN THE MATTER OF A ZONING MAP **FILE NO: DGA 01-008** 5 AMENDMENT WITH CONCOMITANT RECOMMENDATION 6 AGREEMENT FOR SEQUOIA ESTATES 7 8 9 **RECOMMENDATION** 10 The Hearing Examiner recommends APPROVAL of the zoning map amendment for Sequoia 11 Estates from R-12 to R-18, subject to a concomitant agreement. 12 13 **INTRODUCTION** 14 The application of Ironwood Investments to rezone a 1.09 tract of land made up of two parcels, 15 8533 and 17800 Avondale Road, from R-12 to R-18, subject to a concomitant agreement, came 16 on for hearing before Gordon F. Crandall, Hearing Examiner, on October 20, 2003 at 7:00PM. 17 Sarah Stiteler, Senior Planner presented the Technical Committee Report; James W. Abbott 18 represented applicant. 19 20 Testifying under oath were: 21 Sarah Stiteler, Senior Planner 22 James Abbott, Applicant's Representative 23 Dean Riebe, Riebe & Associates Architect 24 Deborah Whitmore, 17332 NE 85th Place, Redmond 25 Linda Flanigan, 17220 NE 85th Place, Redmond 26 Heather Young, 8604 173rd Avenue NE, Redmond 27 Pat Longwell, 17316 NE 85th Place, Redmond 28 Alek Manukova, 8522 173rd Avenue NE, Redmond 29 Suzie Conner, 8538 173rd Avenue NE, Redmond 30 Amy Tarce, Senior Planner

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The following exhibits were offered and admitted:

Exhibit A: Technical Committee Report dated September 24, 2003

Exhibit B: Staff PowerPoint Presentation

Exhibit C: Letters from Smith, Walden, Saigal, Wilbur, Longwell, Flanigan, Miotke

Exhibit D: Letter from Whitmore with photo

Exhibit E: Sample photo of Potential Housing Designs from Planner Tarce

The hearing adjourned at about 8:30 PM.

From the foregoing, the Hearing Examiner makes the following:

FINDINGS OF FACT

- 1. Ironwood Investments, (Applicant) seeks to rezone property at 8533 and 17800 Avondale Road from R-12 to R-18, subject to a concomitant agreement. On May 22, 2002, the Hearing Examiner had recommended denial of an unrestricted rezone of the property and suggested that a rezone subject to a concomitant agreement be considered. The City Council adopted the suggestion and remanded the proposal to the Planning Department.
- 2. The site is in the Education Hill Neighborhood and is designated in the Comprehensive Plan for moderate density residential use. Surrounding land uses and zoning are as follows:

North:	R-12	Multi-family residences: duplexes immediately
		adjacent, then condominiums
South:	R-12	Single-family homes, immediately adjacent, then
		apartments
East:	RA-5	Vacant (across Avondale Road)
West:	R-12	Single-family homes immediately behind

3. Between the 2002 hearing and the current hearing, Applicant met with City planning staff to explore the possibility of developing conditions whereby the density of the site could be increased without negative impacts on the surrounding neighborhood. Applicant also

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held a neighborhood meeting on July 29, 2003 to present information to the community about the proposal and answer questions. Eight persons in addition to Applicant and City staff attended.

- 4. Applicant proposes that the site be rezoned from R-12 to R-18 subject to the following conditions which are summarized as follows:
 - a) Maximum density to be 18 units per gross acre. This will allow 19 units on the site or six or seven more than permitted outright in the R-12 zone
 - b) Site could be developed in accordance with R-12 standards. Only multi-family uses will be permitted.
 - c) Twenty covered parking spaces provided. Surface parking for an additional 16 vehicles will be screened from view from street and neighboring property. No more than five stalls in any one group.
 - d) One hundred square feet of common useable open space for each unit along with 50 square feet of private open space for balconies or 80 square feet for patios.
 - e) Thirty five percent of significant trees to be preserved, plus one landmark tree, the Sequoia. Four replacement trees to be planted for each significant tree removed
 - f) Lighting on the site to be shielded to minimize glare and lighting impacts on neighbors
 - g) Six foot fence on north, west, and south property lines
 - h) Dwelling units shall have a minimum of 700 square feet for one-bedroom units and 900 square feet for two bedroom units
 - i) Trash containers will be located at least 50 feet from the south and west property lines and shall not be visible from NE Avondale Road
 - j) Building within 40 feet of west property line will be limited to 25 feet in height.
 The R-12 regulations will apply throughout
 - k) Buildings or groups of buildings will be sited and designed to evoke a single-family character, as determined by the Design Review Board and the Technical Committee.

- 1) Quality construction and materials will be used
- m) Two units will be "affordable."

A concomitant agreement has been prepared to incorporate the foregoing conditions. See Attachment B. The Technical Committee Report is incorporated herein to establish all details of the site and this proposal.

5. The proposal evoked vigorous opposition from nearby property owners.

<u>Deborah Whitmore</u>, 17332 NE 85th Place, Redmond, lives in a single-family residence on the south property line. She is concerned that residents in the apartment abutting her home will be able to look into her property, that inadequate parking has been provided for visitors, that her property value would go down, that traffic on NE Avondale Road would be worse, and that apartment tenants were not agreeable neighbors

Linda Flanigan, 17220 NE 85th Place, Redmond, was concerned whether the City's infrastructure was adequate to sustain 18 or 19 additional units, that parking was inadequate, that NE Avondale Rd was already packed with cars and that left turns could not be made into the site, that the birds now visiting the site would go elsewhere, and that there would be no play areas or open spaces. Traffic will be bad on 85th and 88th, as people will use this loop road to access the site.

<u>Heather Young</u>, 8604 173rd Avenue NE, Redmond, was concerned for the loss of the valuable single-family neighborhood (Redmond Hills Courts). She was also concerned about the negative impact on the streets and NE Avondale Road, she pointed out that saving 35% of seven trees was only two trees, and the development would push out their little single-family community and affect the resale value of her home.

<u>Pat Longwell</u>, 17316 NE 85th Place, Redmond, pointed out that all other properties in the vicinity were zoned R-12 and that zoning the site to R-18 could impact the community.

<u>Alek Manukova</u>, 8522 173rd Avenue NE, Redmond, lives behind the site and does not want apartments there. He felt that they would block the view from his bedroom.

<u>Suzie Conner</u>, 8538 173rd Avenue NE, Redmond, thought the development was too big for the property and would add too much traffic. Access to the site could be difficult, as one cannot make a northbound left turn into the site.

- 6. Applicant responded to citizen's comments.
 - Apartments are already allowed under the R-12 zoning, and the rezone would add only six or seven units to the allowed density on the site.
 - Adequate parking for residents and visitors will be provided. There will be 36 spaces for 19 units, and 20 will be covered.
 - Seven more dwelling units will have an insignificant effect on traffic.
 - Buildings will be constructed to R-12 standards, already allowed by existing zoning, so privacy will not be affected by the rezone.
 - A fence around the site will enhance privacy for neighboring property owners.
 - Four trees will be planted for every significant tree removed, and the landmark Sequoia will not be removed
- 7. Any conclusion of law deemed to be a finding of fact is hereby adopted as such. From these foregoing findings of fact the Hearing Examiner makes these:

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 RCDG 20F.40.70-020 provides that an application for a zoning map amendment which is consistent with the Comprehensive Plan is a Type IV Land Use process. Under that process, the Hearing Examiner conducts a hearing and makes a Recommendation to the City Council. RCDG 20F.30.45-015.

2. RCDG 20F.40.70-050, Amendment Criteria, provides as follows:

The following factors are to be taken into account by the Planning Commission and the City Council when considering a map amendment:

- 1. The amendment complies with the Comprehensive Plan Land Use Map, policies, and provisions;
- 2. The amendment bears a substantial relation to the public health and safety;
- 3. The amendment is warranted because of changed circumstances, a mistake, or because of a need for additional property in the proposed zoning district;
- 4. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning district;
- 5. The amendment will not be materially detrimental to uses or property in the immediate vicinity of the subject property;
- 6. Adequate public facilities and services are likely to be available to serve the development allowed by the proposed zone;
- 7. The probable adverse environmental impacts of the types of development allowed by the proposed zone can be mitigated taking into account all applicable regulations or the unmitigated impacts are acceptable; and
- 8. The amendment complies with all other applicable criteria and standards in the Redmond Community Development Guide.
- 3. RCDG20F.40.40.030 provides as follows:

Conditions to Amendment

The City Council may require the applicant to submit a conceptual site plan prior to final approval being granted on an amendment to the Zoning Map.

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The City may require the applicant to enter into a concomitant agreement with the City as a condition of the Zoning Map amendment and may, through that agreement, impose development conditions designed to mitigate potential impacts of the amendment and development pursuant thereto.

4. Staff recommends approval of the application for the rezone and the Concomitant Agreement. The Hearing Examiner concurs. The slight increase in density is adequately offset by the conditions imposed on the property, which will mitigate any adverse effects. The objections of the neighboring property owners seem to be directed to <u>any</u> apartment development, and not to the relatively small increase sought by applicant. Applicant could develop 12 or 13 apartment units without further approval of the City.

As a result of the year of planning and negotiations, staff and the developer have produced an agreement that will assure a quality development that meets the needs of the Applicant and the City and protects the rights and interest of the neighboring property owners.

5. Any finding of fact deemed to be a conclusion of law is hereby adopted as such.

RECOMMENDATION

The Hearing Examiner recommends **APPROVAL** of the zoning map amendment for Sequoia Estates from R-12 to R-18, subject to a concomitant agreement, the text of which is set forth in Attachment B.

Done this 29th Day of October 2003.

/s/ Gordon F. Crandall

GORDON F. CRANDALL HEARING EXAMINER

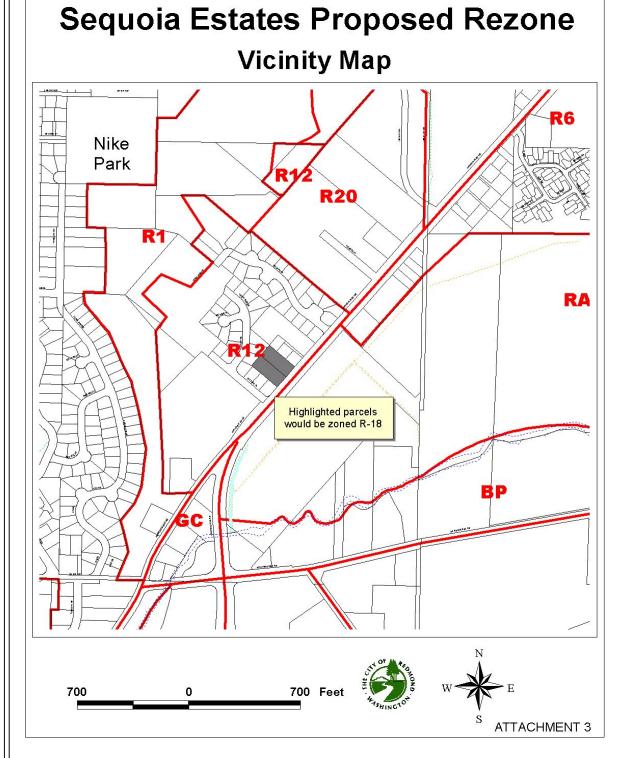
Attachment A: Site Plan

Attachment B: Concomitant Agreement

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P.O. Box 97010 Redmond, WA 98073-9710

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CONCOMITANT AGREEMENT FOR SEQUOIA ESTATES REZONE

(Formerly Twin Firs)

FILE DGA 01-008

WHEREAS, the undersigned owner, hereinafter referred to as "the Owner" is the Owner of certain real property located within the City of Redmond, King County, Washington, which is the subject of this Agreement and which is legally described on Exhibit A attached hereto and incorporated herein by this reference as if set forth in full, and;

WHEREAS, the Owner has requested approval of an amendment to the City of Redmond's

Official Zoning Map in order to change the zoning designation of the property from Moderate

Density Residential (R-12) to Moderate Density Residential with Conditions (R-18/C), and;

WHEREAS, the City Council on July 16, 2002 voted to approve the Hearing Examiner's

recommendation to deny the rezone request and remand the application back to the Planning

Department for development of a concomitant agreement, and;

WHEREAS, the concomitant zoning agreement represents the document requested by the City Council to address the issues of potential negative effects of the proposed higher zoning on the

surrounding area and provides the additional authority for those concerns to be met in the

development process, and;

WHEREAS, the requested zoning map amendment shall be subject to the conditions of the concomitant zoning agreement by the Owner and the City of Redmond, binding the property to the conditions of approval, and;

WHEREAS, the Owner has indicated a willingness to cooperate with the City in order to ensure compliance with the proposed conditions of approval, now, therefore,

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IN CONSIDERATION OF the City's approval of the zoning map amendment request by the Owner, the Owner hereby covenants and agrees, and the City accepts such covenant and agreement by the Owner as compliance with the conditions of approval as follows:

1. Warranty of Title. The Owner warrants that he has fee title to the property described on Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full, and that he is authorized to execute this Agreement and to bind said property to the terms and conditions hereof.

2. Residential Development. Any development on the site shall be of a residential character. Residential density on the site shall be limited to no more than eighteen units per gross acre using the calculation method as set forth in 20C.30.25-030 of the Redmond Community Development Guide, which would permit 20 units maximum on this site.

3. Limited Uses. Except as provided in this Agreement, the uses allowed on the site shall be those authorized by the Redmond Community Development Guide for the Moderate Density Residential District (R-12) as the time of development.

4. Other Development Restrictions. The subsequent development on site shall comply with all development standards set forth in the Redmond Community Development Guide, including the Design Guidelines, Noise Ordinance, Landscaping and Parking regulations, etc. which are in place at the time of development. The following additional development restrictions shall apply to any construction on the site, notwithstanding any contrary provision of the Redmond Community Development Guide:

TYPE OF DEVELOPMENT RESTRICTION IMPOSED RESTRICTION

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Allowed Density Not more than eighteen units per gross acre.

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1 Other Site Requirements Site development shall be in accordance 2 with the Site Requirements of the R-12 3 zone that are presented in the Site 4 Requirements Chart of the current (at the 5 time of development) Redmond Community 6 Development Guide. 7 8 **Parking** There shall be a minimum of 20 covered 9 parking stalls provided. Parking stalls shall 10 be grouped such that no more than five open 11 parking stalls shall occur without separation 12 from other stalls by either a planting island 13 or a building. Surface parking will be sited 14 so that it can be screened from view along 15 Avondale Road and from the neighboring 16 properties. 17 18 Useable Open Space At least 100 square feet of common useable 19 open space shall be provided for each unit; 20 along with 50 square feet of private open 21 space for balconies, or 80 square feet of 22 private open space for patios. Common and 23 private open space shall meet the 24 dimensional criteria specified in Table 20C. 25 40.60-020 of the Redmond Community 26 Development Guide section 20C.40.60-020. 27 28 5. Tree Preservation. Preservation of significant and landmark trees on site shall comply 29 with the City of Redmond's tree preservation regulations, RCDG 20D.80. Prior to 30 issuance of, and in conjunction with any permit or approval for construction on the site,

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the Owner shall have a tree survey meeting requirements of the Redmond Community Development Guide conducted in order to identify all significant trees. At least 35% of all landmark and significant trees shall be preserved to the extent feasible in light of the approved use of the property as set forth in the Redmond Community Development Guide. The single landmark tree, the sequoia, shall be preserved. For every significant tree removed, Owner will plant four replacement trees. A tree preservation plan shall be presented to and approved by the Design Review Board as part of any site plan review or other development approval.

- 6. <u>Lighting</u>. All lighting for any proposed development on the site shall be shielded and/or reflected downward to minimize glare and lighting impacts on adjacent properties. A Lighting Plan shall be reviewed and approved by the City of Redmond in accordance with the lighting standards in the Redmond Community Development Guide, RCDG 20D.90.
- 7. <u>Fencing.</u> Any proposed development on the site shall include uniformly designed 6 foot high fencing at the North, West and South property lines.
- 8. <u>Size of Units.</u> Dwelling units in any proposed development shall have a minimum of 700 square feet for one-bedroom units and 900 square feet for two bedroom units.
- Trash Enclosure. Trash enclosure(s) for any proposed development shall be located a
 minimum of fifty feet from the south and west property lines and shall not be visible from
 Avondale Road.
- 10. <u>Height of Buildings</u>. Buildings in any proposed development which are within forty feet of the west property line will be limited to 25 feet in height, as measured in accordance with the building height definition in the Redmond Community Development Guide.

- 11. <u>Design of Buildings</u>. The building or group of buildings shall be sited and designed to evoke a single-family character. Some techniques that can be employed include: breaking up the building mass and roof profile, using a shared exterior entry, or orienting the exterior entries for one building in a way that only one entry can be seen from any one view. Other techniques will be considered by the Design Review Board and the Technical Committee. All garages and carports shall have pitched roofs.
- 12. Quality Construction Materials. Quality construction materials shall be used that will create an image of permanence. Examples include brick, stone, cementitious fiberboard and copper. At least two types of materials should be used in combination to create interest. No vinyl or metal siding, and metal roofing materials will be allowed. However, metal may be used for trellises, or blank wall mitigation elements.
- 13. Affordable Housing Requirement. A minimum of two (2) of the units added as part of this rezone, whether as part of a phased or not phased development, shall be made affordable to households earning 80% or less of the King County Median Income, adjusted for household size. Prior to issuance of any building permits for development on the property, an agreement in a form approved by the City shall be recorded with the King County Department of Records and Elections to stipulate conditions under which the required affordable unit(s) will remain affordable housing for the life of the project. This agreement shall be a covenant running with the land, binding on the assigns, heirs, and successors of the applicant. The City may agree, at its sole discretion, to subordinate any affordable housing regulatory agreement for the purpose of allowing the owner to obtain financing for development of the property, consistent with any applicable provision of the Redmond Community Development Guide in effect at the time of the issuance of the building permit.
- 14. <u>Binding Effect</u>. This Agreement shall be filed and recorded with the King County Department of Records and Elections and shall constitute a covenant running with the land described on Exhibit A, and shall be binding upon the Owner, his successors in

interest and assigns. Except as set out in this Agreement, the zoning, building and development regulations, policies and ordinances, and comprehensive plan policies of the City governing land development in effect as of the date of this concomitant zoning agreement shall govern the subsequent development of this property.

- 15. <u>Enforcement</u>. In addition to any other remedy provided by law, the City may, at its discretion maintain a lawsuit to compel specific performance of the terms and conditions of this Agreement or to otherwise enforce its provisions, through injunctive or other relief; and the prevailing party in such action shall be entitled to recover its costs, including reasonable attorney's fees.
- 16. Severability. In the event any section paragraph, sentence, term or clause of this Agreement conflicts with applicable law or is found by any court having jurisdiction thereof to be contrary to law, such conflict shall not affect other sections, paragraphs, sentences, terms or clauses of this Agreement which can be given effect without the conflicting provision and to this end the terms of this Agreement shall be deemed to be severable, provided, however, that in the event any section, paragraph, sentence, term or clause of this Agreement is found to conflict with applicable law, the City shall have the right to bring the proposed development back before the City Council or other appropriate body for further review and imposition of appropriate conditions to ensure that the purposes for which this Agreement is entered into are in fact accomplished and the impacts of the proposed development are mitigated.